

## CHAPTER 95

### SCHOOLS AND SCHOOL EMPLOYEES — REVIEW, REPORTING, AND INVESTIGATION OF EMPLOYEES AND LICENSED PRACTITIONERS — MEMBERSHIP OF BOARD OF EDUCATIONAL EXAMINERS

H.F. 430

**AN ACT** relating to education, including requirements related to mandatory reporters, a process for investigating complaints against school employees, and the responsibilities of the department of education, school districts, charter schools, accredited nonpublic schools, and the board of educational examiners, modifying the membership of the board of educational examiners, and including applicability provisions.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. [Section 232.69, subsection 1](#), unnumbered paragraph 1, Code 2023, is amended to read as follows:

The classes of persons enumerated in [this subsection](#) shall make a report within twenty-four hours and as provided in [section 232.70](#), of cases of child abuse. In addition, the classes of persons enumerated in [this subsection](#) shall make a report of abuse of a child ~~who is under twelve years of age and may make a report of abuse of a child who is twelve years of age or older~~, which would be defined as child abuse under [section 232.68, subsection 2](#), paragraph “a”, subparagraph (3) or (5), except that the abuse resulted from the acts or omissions of a person other than a person responsible for the care of the child.

Sec. 2. [Section 232.69, subsection 1](#), paragraph b, subparagraph (4), Code 2023, is amended to read as follows:

(4) A licensed school employee, certified para-educator, holder of a coaching authorization issued under [section 272.31](#), school employee who is eighteen years of age or older, or an instructor employed by a community college.

Sec. 3. [Section 232.70, subsection 5](#), Code 2023, is amended by adding the following new paragraph:

NEW PARAGRAPH. *Of.* If the person making the report is a licensed school employee who reasonably believes the person responsible for the injury is also a licensed school employee, the identity of the licensed school employee the person making the report believes is responsible for the injury.

Sec. 4. [Section 256.9](#), Code 2023, is amended by adding the following new subsection:

NEW SUBSECTION. 66. *a.* Develop and implement a process for the reporting and investigation of any incident that arises that may reasonably lead to the conclusion that any individual who is employed by the board of directors of a school district, the authorities in charge of an accredited nonpublic school, or the governing board of a charter school, including an individual with a license, endorsement, certification, authorization, or statement of recognition issued by the board of educational examiners, has committed a felony or, in the case of an individual with a license, endorsement, certification, authorization, or statement of recognition issued by the board of educational examiners, has engaged in conduct described in [section 272.15, subsection 1](#), paragraph “a”, subparagraph (1), subparagraph divisions (a) through (d).

*b.* The process shall prohibit the board of directors of a school district, the authorities in charge of an accredited nonpublic school, and the governing board of a charter school from entering into any of the following:

(1) A written or oral agreement that prohibits the board of directors of the school district, the authorities in charge of an accredited nonpublic school, the governing board of a charter school, an employee of the school district, the accredited nonpublic school, or the charter school, or a contractor of the school district, the accredited nonpublic school, or the charter school from discussing an incident, past performance or actions, past allegations leading to

discipline or adverse employment action, or employee resignation with any governmental agent, governmental officer, or any potential employer.

(2) A written or oral agreement that waives the liability of an individual with a license, endorsement, certification, authorization, or statement of recognition issued by the board of educational examiners related to or arising from an incident, past performance or action, or past allegations of wrongdoing.

c. (1) The process shall require the board of directors of a school district, the authorities in charge of an accredited nonpublic school, and the governing board of a charter school to provide all documentation and information related to the incident to the board of educational examiners for investigation if the employee who is the subject of the incident and who has a license, endorsement, certification, authorization, or statement of recognition issued by the board of educational examiners resigns or the employee's contract is terminated during the school district's, accredited nonpublic school's, or charter school's investigation of the incident.

(2) The process shall require the board of directors of a school district, the authorities in charge of an accredited nonpublic school, and the governing board of a charter school to finalize the investigation of the incident even if the employee who is the subject of the incident and who does not have a license, endorsement, certification, authorization, or statement of recognition issued by the board of educational examiners resigns or the employee's contract is terminated during the school district's, accredited nonpublic school's, or charter school's investigation of the incident.

d. The process shall require that, prior to hiring an applicant for any position, the board of directors of a school district, the authorities in charge of an accredited nonpublic school, and the governing board of a charter school must conduct a review of the applicant's employment history, including by contacting the applicant's previous employers listed on the application for employment and by viewing the board of educational examiners' public license information to determine if the applicant has a case pending with a finding of probable cause or any licensure sanction.

e. The process shall require the board of directors of a school district, the authorities in charge of an accredited nonpublic school, and the governing board of a charter school to maintain on forms prescribed by the department reference information related to all employees of the school district, accredited nonpublic school, or charter school, and respond to any request for such information from a potential employer. This paragraph shall not be construed to require the board of directors of a school district, the authorities in charge of an accredited nonpublic school, or the governing board of a charter school to disclose unfounded, closed investigations. The board of directors of a school district, the authorities in charge of an accredited nonpublic school, or the governing board of a charter school shall be immune from any criminal or civil liability arising from the disclosure of reference information under this paragraph if the school district, accredited nonpublic school, or charter school does not knowingly disclose false information.

f. The board of directors of a school district, the authorities in charge of an accredited nonpublic school, or the governing board of a charter school, and contractors of the school district, the accredited nonpublic school, or the charter school shall be immune from any civil liability arising from discussing an incident, past performance or actions, past allegations leading to discipline or adverse employment action, or employee resignation with any governmental agent, governmental officer, or any potential employer.

g. If the board of educational examiners finds that the board of directors of a school district, the authorities in charge of an accredited nonpublic school, or the governing board of a charter school has intentionally failed to follow the process established by [this subsection](#) regarding an incident, or the reporting requirements established pursuant to [section 272.15](#), related to an employee who holds a license, endorsement, certification, authorization, or statement of recognition issued by the board of educational examiners, any administrator of the school district, the accredited nonpublic school, or the charter school who intentionally failed to ensure compliance with the process shall be subject to a hearing conducted by the board of educational examiners.

h. If the department finds that the board of directors of a school district, the authorities in charge of an accredited nonpublic school, or the governing board of a charter school has

intentionally failed to follow the process established by [this subsection](#) regarding an incident related to an employee who does not hold a license, endorsement, certification, authorization, or statement of recognition issued by the board of educational examiners, any administrator of the school district, the accredited nonpublic school, or the charter school who intentionally failed to ensure compliance with the process shall be subject to a hearing conducted by the board of educational examiners.

i. If the board of educational examiners finds that the board of directors of a school district, the authorities in charge of an accredited nonpublic school, or the governing board of a charter school has intentionally concealed, or attempted to conceal from any governmental agent, governmental officer, or potential employer a founded incident, or any conduct required to be reported pursuant to [section 272.15](#), related to an employee who holds a license, endorsement, certification, authorization, or statement of recognition issued by the board of educational examiners, any administrator of the school district, the accredited nonpublic school, or the charter school who intentionally assisted in the concealment, or attempted concealment, of an incident, or any conduct required to be reported pursuant to [section 272.15](#), shall be subject to a hearing conducted by the board of educational examiners.

j. If the department finds that the board of directors of a school district, the authorities in charge of an accredited nonpublic school, or the governing board of a charter school has intentionally concealed, or attempted to conceal from any governmental agent, governmental officer, or potential employer a founded incident related to an employee who does not hold a license, endorsement, certification, authorization, or statement of recognition issued by the board of educational examiners, any administrator of the school district, the accredited nonpublic school, or the charter school who intentionally assisted in the concealment, or attempted concealment, of an incident shall be subject to a hearing conducted by the board of educational examiners.

**Sec. 5. NEW SECTION. 256.158A Required annual report to general assembly.**

Annually, on or before June 30 of each year, the board shall submit to the general assembly a report that contains information related to the number and types of disciplinary hearings before the board, any trends in the number or types of disciplinary hearings before the board, the number of hearings requested under [section 279.24](#), and any other information deemed relevant by the board in order to inform the general assembly of the status of the enforcement of the board's rules. The report shall not include any personally identifiable information related to individuals who participated in hearings before the board.

Sec. 6. [Section 256E.7, subsection 2](#), Code 2023, is amended by adding the following new paragraphs:

NEW PARAGRAPH. 0j. Be subject to and comply with the requirements of [section 280.33](#) relating to the reporting and investigation of an incident involving the possible commission of a felony by any person who has been issued a license, endorsement, certification, authorization, or statement of recognition by the board of educational examiners in the same manner as a school district.

NEW PARAGRAPH. 00j. Be subject to and comply with the requirements of [section 280.34](#) relating to the requirement to view the board of educational examiners' public license information prior to hiring an individual who has been issued a license, endorsement, certification, authorization, or statement of recognition by the board of educational examiners in the same manner as a school district.

Sec. 7. [Section 272.2, subsection 15](#), Code 2023, is amended to read as follows:

15. a. Adopt rules that require specificity in written complaints that are filed by individuals who have personal knowledge of an alleged violation and which are accepted by the board, provide that the jurisdictional requirements as set by the board in administrative rule are met on the face of the complaint before initiating an investigation of allegations, provide that any investigation be limited to the allegations contained on the face of the complaint, provide for an adequate interval between the receipt of a complaint and public notice of the complaint, permit parties to a complaint to mutually agree to a resolution of the complaint filed with

the board, allow the respondent the right to review any investigative report upon a finding of probable cause for further action by the board, require that the conduct providing the basis for the complaint occurred within three years of discovery of the event by the complainant unless good cause can be shown for an extension of this limitation, and require complaints to be resolved within one hundred eighty days unless good cause can be shown for an extension of this limitation, and require the board to finalize the investigation of the written complaint even if the licensed practitioner resigns or surrenders the licensed practitioner's license, certificate, authorization, or statement of recognition during the investigation.

b. Adopt rules that require the collection and retention of written complaints that are filed. If the board determines a written complaint is not founded, the complaint and all records related to the complaint shall be kept confidential and are not subject to [chapter 22](#).

c. Adopt rules that require the board to notify the public when a licensed practitioner who is the subject of an ongoing investigation initiated under paragraph "a" has a case pending with a finding of probable cause. This paragraph shall not be construed to require the board to disclose unfounded, closed investigations initiated under paragraph "a".

d. Adopt rules that require the evaluation of complaints that did not result in any discipline or sanction if similar complaints are filed against the same licensed practitioner.

e. Adopt rules that require the board to investigate an administrator who is employed by the school that employs a licensed practitioner who is the subject of an investigation initiated under paragraph "a". The rules shall require the board to investigate whether the administrator filed a written complaint pursuant to [this subsection](#) and whether the administrator was required to report to the board pursuant to [section 272.15](#).

Sec. 8. [Section 272.3](#), Code 2023, is amended by striking the section and inserting in lieu thereof the following:

**272.3 Membership.**

1. The board of educational examiners shall consist of thirteen members, subject to the following requirements:

a. Four members shall be members of the general public who have demonstrated an interest in education but have never held a practitioner's license. Two of the members appointed pursuant to this paragraph shall be the parent or guardian of a student who is currently enrolled in a school district, accredited nonpublic school, or charter school, shall not currently hold any elective office, and shall not be an employee or contractor of a school district, accredited nonpublic school, or charter school. One of the members appointed pursuant to this paragraph shall have been or currently be a member of the board of directors of a school district.

b. Eight members shall be licensed practitioners. Three of the members appointed pursuant to this paragraph shall be administrators and one shall be an employee of an accredited nonpublic school. The remaining four members appointed pursuant to this paragraph shall be selected from the following areas and specialties of the teaching profession:

- (1) Elementary teachers.
- (2) Secondary teachers.
- (3) Special education or similar teachers.
- (4) Counselors or other special purpose practitioners.
- (5) School service personnel.

c. One member shall be the director of the department or the director's designee.

2. The membership of the board shall comply with the requirements of [sections 69.16 and 69.16A](#). A quorum of the board shall consist of seven members. Members shall elect a chairperson of the board. Members, except for the director of the department or the director's designee, shall be appointed by the governor subject to confirmation by the senate.

Sec. 9. [Section 272.4, subsection 1](#), Code 2023, is amended to read as follows:

1. Members, except for the director ~~of the department of education~~ or the director's designee, shall be appointed to serve staggered terms of four years. A member shall not serve more than two consecutive terms, except for the director ~~of the department of education~~ or the director's designee, who shall serve until the director's term of office expires. A

member of the board, ~~except for the two public members and the director of the department of education or the director's designee, who is a licensed practitioner appointed pursuant to [section 272.3, subsection 1](#), paragraph "b", shall hold a valid practitioner's license during the member's term of office. A vacancy exists when any of the following occur:~~

- ~~a. A nonpublic member's license~~ The license of a licensed practitioner appointed pursuant to [section 272.3, subsection 1](#), paragraph "b", expires, is suspended, or is revoked.
- ~~b. A nonpublic member licensed practitioner appointed pursuant to [section 272.3, subsection 1](#), paragraph "b", retires or terminates employment as a practitioner.~~
- c. A member dies, resigns, is removed from office, or is otherwise physically unable to perform the duties of office.
- d. A member's term of office expires.

**Sec. 10. NEW SECTION. 280.33 Incidents related to licensed practitioners — reporting and investigation.**

The board of directors of a school district and the authorities in charge of each accredited nonpublic school shall follow the process created by the department of education pursuant to [section 256.9, subsection 66](#), related to the reporting and investigation of an incident involving the possible commission of a felony by any employee of the board of directors of the school district or the authorities in charge of the accredited nonpublic school.

**Sec. 11. NEW SECTION. 280.34 Requirement to view public license information.**

Prior to hiring an individual who has been issued a license, endorsement, certification, authorization, or statement of recognition by the board of educational examiners, a school district or an accredited nonpublic school, as applicable, shall view the board of educational examiners' public license information to determine if the individual has a case pending with a finding of probable cause or any licensure sanction. [This section](#) shall not be construed to require the board of educational examiners to disclose unfounded, closed investigations.

**Sec. 12. APPLICABILITY.** The following apply to the governor's appointments to the board of educational examiners on or after the effective date of this Act:

1. The section of this Act amending [section 272.3](#).
2. The section of this Act amending [section 272.4, subsection 1](#).

Approved May 26, 2023